

JEFFERSON COUNTY COMMISSIONERS  
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TOM LYTHGOE, CHAIR

CHUCK NOTBOHM

KEN WEBER

**PROCEEDING OF THE BOARD OF COMMISSIONERS  
COUNTY OF JEFFERSON, STATE OF MONTANA  
July 26, 2005**

**Present:** Commissioners Lythgoe, Notbohm and Weber; Harold Stepper, County Planner; Matt Johnson, County Attorney; Glenna Waltee and John Rice, Library Board; Jan Anderson, *Boulder Monitor/Jefferson County Courier*, Mark Chandler, John Sinrud, Don Lucia, Robert McKay,

**MINUTES**

Commissioner Weber moved to approve the minutes of the July 12 meeting. Commissioner Notbohm seconded. The motion carried.

Commissioner Lythgoe moved to approve the minutes of the July 19 meeting. Commissioner Weber seconded. The motion carried.

**CALENDAR REVIEW**

- 7/27 Planning Board - 7:00  
Jefferson River Watershed - Twin Bridges - 7:00
- 7/28 Youth Forestry Monitoring Program presentations - Helena - 10:30  
Juvenile Detention - Galen - 1:00  
Health Board - 6:30
- 7/29 Headwaters - Butte - 8:30
- 8/02 9-1-1 meeting - 7:00

**COMMISSION REPORTS**

**PLANNING BOARD**

Commissioner Weber stated that he attended the Planning Board public meeting regarding Highland Park and another subdivision. He stated that both look like good projects.

**GOLDEN SUNLIGHT SEIS**

Commissioner Weber reported that the Commission met with Rick Hotaling of the BLM regarding the Golden Sunlight SEIS. Rick will be half of the record of decision. Commissioner Weber stated that Rick seems to be on the same page as the Commission, but could give no

guarantee at this time. He stated that the Commission should contact the EPA in Denver, rather than the Helena office. They also discussed the Buckner Exchange. Commissioner Notbohm stated that it appears that access will be retained.

#### **GRANT WRITER**

Commissioner Weber stated that the Commission met with Tom Harrington, Scott Mendenhall and Pat Lewis of the JLDC to discuss a grant writer position. Everyone brought a list of what they would like to see, and another meeting will be held in two weeks, after everyone has a chance to digest all of the information.

#### **WEED/MOSQUITO STORAGE**

Commissioner Notbohm stated that he has been working with Jay Cole, the Weed Coordinator, to gather information for a storage building for the weed and mosquito trucks and chemicals.

#### **SUBDIVISION REVIEW**

##### **PRELIMINARY PLAT APPROVAL - HIGHLAND PARK MAJOR SUBDIVISION**

Harold Stepper, County Planner, presented his staff report. He stated that the conditions of approval are pretty standard, with a couple of exceptions. Condition #7 calls for magnesium chloride to be incorporated into the road surfaces. Condition #14 states that the developer has agreed to adding two 15,000 gallon water supply points for fire protection and unrestricted use for the fire district. Condition #16 noted that an irrigation ditch runs through several lots, rendering a portion of the lot essentially useless. The ditch company must retain access to the ditch and the ditch should be fenced to keep children out. The developer is encouraged to redraw the lot lines. Several additional conditions were added by the planning board during the public hearing. These stated that the developer must contact the State Historical Preservation Society prior to any construction, add a covenant that no further subdivision may be done on any lot within the subdivision, a gate will be installed in the fence on the north side of the irrigation ditch to assist emergency responders access and soil tests are to be performed for contaminants in the old dump area. Harold recommended that preliminary plat approval be granted. John Sinrud, the developer, stated that he is okay with the conditions. Commissioner Lythgoe stated that all of the Commissioners have reviewed the site. There were some concerns brought up in the public hearing, but all of those have been addressed, and there was no strong opposition. Commissioner Lythgoe moved to grant preliminary plat approval. Commissioner Notbohm seconded. Commissioner Weber thanked those involved for preparing so well for the meeting, and for listening to the concerns of the public. The motion carried.

#### **ITEMS FOR COMMISSIONERS ACTION OR REVIEW**

##### **DISCUSS AND DECIDE ON REQUEST TO PERMIT THE LIBRARY AIDES INTO THE UNION**

Commissioner Lythgoe read a letter from the secretary/treasurer of the local union requesting that the library aides be added to the union, and a memo from the County Attorney giving his opinion (attached). Commissioner Notbohm asked if the Commission has the authority to grant

or deny this request. Matt said that the contract basically states that any new position is in the union. There is also the question as to how many hours a week these positions are. John Rice stated that the Boulder aide works 20 hours per week, and the Whitehall aide works 30 hours per week. Matt stated that they are both at 20 or more hours, so that is okay. He noted that one employee wants to be in the union and the other doesn't. His suggestion, after hearing this, is to petition the union, rather than decide for the employees. Commissioner Lythgoe stated that the Commission can't say that someone cannot be in the union. Matt stated that it then gets to the question if the librarians are in a supervisory position and should be out of the union; if the Library Board hires a director, it gets more muddy. Commissioner Notbohm noted that the Library Board is free-standing, and asked again if the Commission has any say in the matter. Matt agreed that the Library Board is free-standing, but the Commission signs the union contracts. He stated that the Library Board has not been part of the union negotiations in the past, but that they probably should be. Matt referred to a memo that he sent to the Commission in April, which stated that it may be time for Jefferson County to become a Library District with elected trustees that would run the library. This can be done by a petition or a resolution of intent by the Commission. It would then go before the voters, a maximum mill levy would be set and the initial trustees appointed. Subsequent trustees would be voted in. The current library system could then be incorporated into the library district. Commissioner Notbohm stated that this would be set up basically like a fire district, with the members elected by the public. He asked Matt if he had talked to Bonnie about an election. Matt stated that he hasn't, but this could be done at the same time as school elections. Commissioner Weber asked if the Commission developed a resolution of intent, would it go on the next school election. Matt stated that it doesn't have to be with the school. Commissioner Lythgoe asked if they would use the mill levy that is in place at this time. Matt stated that this would be outlined in the resolution of intent, but yes, they could use the levy that is currently in place. Glenna Waltee stated that what Matt is proposing is new, and would require some study. To get back to the initial issue, there is a letter from one of the library aides, stating that she does not wish to be in the union. Commissioner Notbohm stated that, in regards to this, there is a split vote with one for it and one against it, and he is not comfortable with making the decision for them. He stated that he considers them county employees, but the state does not.

Commissioner Weber noted that, as Matt indicated, the Commission can kick this up to the state, if they are not comfortable making the decision. Commissioner Lythgoe stated that that is cumbersome, and that he doesn't feel that the Commission needs to go there. He said that when he worked for the state, he was non-union for years, then was suddenly told that he was in the union. He stated that he thinks the Commission can make a decision. Commissioner Weber stated that he has been doing quite a bit of thinking about this since it came up, but came to the conclusion that the decision was made for the Commission when Jefferson County was made a closed shop, whatever anyone feels about it. Commissioner Notbohm stated that the library aides are not really county employees, and they are in error to make a decision. This should go to the state. Commissioner Lythgoe stated that the Commission does have a connection with the Library Board, through the union and the financial aspect, and the union contract states that it is up to the Commission to make this decision. Matt agreed that the contract does give the Commission the authority, but he also understands Commissioner Notbohm's concerns.

Commissioner Lythgoe stated that this process is confusing, cumbersome, and has the potential to breed conflict every time something comes up; that is why Matt's recommendation is a good

one. Commissioner Notbohm stated that this is a good time to start the separation, and let the Library Board and the state decide if these positions are in the union or not. Commissioner Weber stated that his point is that the decision was made years ago. Jefferson County is a closed shop. If the Commission decides not to include these positions in the union, the employee that wants to be in the union will go to the state and it will happen anyway.

John Rice asked why this is happening now. Commissioner Lythgoe stated that it is the same as with his past position, someone asked. John stated that these people who work part-time and don't make a lot of money will have to pay out dues for nothing. Commissioner Lythgoe stated that the union and union members will say that there is a benefit to the members. Commissioner Weber stated that employees, as a group, have the right to get themselves in or out of a union. As a majority, the employees voted to be in a union, and for Jefferson County to be a closed shop. They can also vote themselves out of the union, with a majority. John stated that there is one employee for and one against. Commissioner Lythgoe stated that there is no choice. John stated that the decision should be left up to the state. Commissioner Lythgoe stated that he believes that the decision has been made a long time ago. These employees should have been in the union a long time ago. Glenna asked Commissioner Lythgoe if he was saying that it is too inconvenient for the Commission to go to the state. Commissioner Lythgoe stated that personally, he feels that this is the right decision.

Commissioner Weber moved to have the two library aide positions joined to the MEA-MFT union, and to acknowledge that Jefferson County is a closed shop. Commissioner Lythgoe seconded. Commissioner Notbohm stated that he is not an advocate of closed shops. These are half-time employees, and in fact, he feels that any employee should be able to decide if they want to be in a union or not. The motion carried, with Commissioners Lythgoe and Weber voting aye and Commissioner Notbohm voting nay.

#### RESOLUTION 24-2005 DISTRIBUTION OF METALLIFEROUS MINES LICENSE TAX

Commissioner Lythgoe read the resolution as follows:

### **RESOLUTION 24-2005**

### **DISTRIBUTION OF METALLIFEROUS MINES LICENSE TAX**

**WHEREAS**, §15-37-117, MCA, requires that twenty-four percent (24%) of metalliferous mines license taxes, collected by the State under the authority of Title 15, Chapter 37, Part 1, MCA, be distributed to the county in which the mine is located; and

**WHEREAS**, § 15-37-117, MCA, requires the County Commissioners of such county to allocate those sums received by them, from said metalliferous mines license taxes collected by the State, as follows:

- (1) Not less than forty percent (40%) to the County Hard Rock Mine Trust Reserve

Account established under § 7-6-2225, MCA; and

(2) All money, not allocated to the said County Hard Rock Mine Trust Reserve Account, is to be allocated as follows:

(a) 33⅓% to the County Metal Mines Tax Reserve Account for planning or economic development activities;

(b) 33⅓% to the elementary school districts Metal Mines Tax Reserve Account, within the County, that have been affected by the development or operation of the metal mines; and,

(c) 33⅓% to the high school districts Metal Mines Tax Reserve Account within the County that have been affected by the development or operation of the metal mine; and

**WHEREAS**, there are several metalliferous mines located within the boundaries of Jefferson County; and

**WHEREAS**, Jefferson County government has recently received \$68,524.78 as its share of such metalliferous mines license taxes collected from the metalliferous mines within Jefferson County,

**NOW, THEREFORE, BE IT RESOLVED** by the Jefferson County Board of Commissioners as follows:

1. That forty percent (40%) of such total sum of \$68,524.78 shall be allocated to and placed in, the County Hard Rock Mine Trust Reserve Fund 2895 established under § 7-6-2225, MCA.

2. That all such sums, held in the above-referenced Hard Rock Mine Trust Reserve Fund and/or above-numbered fund(s) on behalf of the above-named school districts and Jefferson County, shall remain in such account and shall be properly accounted for under the appropriate fund number or numbers established for the same. Further, such sums shall be appropriated by the governing body of Jefferson County, and/or distributed thereby, only in accordance with the provision of § 7-6-2226, MCA.

3. That sixty percent (60%) of such total sum of \$68,524.78 shall be allocated to, and placed in, the County Metal Mines Tax Reserve Account established under § 7-6-2226, MCA.

4. That one-third (⅓) of the said sixty percent (60%) placed in the County Metal Mines Tax Reserve Account pursuant to the preceding Paragraph No. 3 shall be placed in Economic  
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Development and Planning Account No. 2320. Such sums to be paid to said account (totaling at this time, the sum of \$13,704.97) shall only be used for planning or economic development activities.

5. That one-third ( $\frac{1}{3}$ ) of the said sixty percent (60%), placed in the County Metal Mines Tax Reserve Account pursuant to the above Paragraph No. 3, shall be allocated and appropriated to the benefit of the following elementary school districts, affected by the development or operation of the several metal mines, or a pro-rata basis determined from the license taxes collected from the mine or mines within each such school district:

(i) To the Clancy Elementary School District No. 1, the total sum of \$13,704.95 to be placed in said School District's Account No. 7712;

6. That one-third ( $\frac{1}{3}$ ) of the said sixty percent (60%), placed in the County Metal Mines Tax Reserve Account pursuant to the above Paragraph No. 3, shall be allocated and appropriated to the benefit of the following high school districts, affected by the development or operation of the several metal mines, on a pro-rata basis determined from the license taxes collected from the mine or mines within each such school district:

(i) To the Jefferson High School District No. 1, the total sum of \$13,704.95 to be placed in said School District's Account No. 7761;

**DATED** this 26<sup>th</sup> day of July, 2005.

**ATTEST:**

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**BONNIE RAMEY**  
**CLERK AND RECORDER**

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**TOMAS E. LYTHGOE, CHAIR**

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**CHUCK NOTBOHM, COMMISSIONER**

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**KEN WEBER, COMMISSIONER**

Commissioner Weber moved to adopt the resolution. Commissioner Lythgoe seconded. The motion carried.

RESOLUTION 25-2005 ABANDONING STREETS/ALLEYS IN CLANCY

Commissioner Lythgoe read the resolution as follows:

**RESOLUTION 25-2005**

**AN ORDER ABANDONING A COUNTY STREET AND ALLEYS**

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the "Board"), by Steve Marks, Laura Marks, Roberts Marks, Darrell Miller, Larry Bloxsom, Ben Grace, David Leitheiser, Brent Farrell and Sharon Grace on the 22<sup>nd</sup> day of April, 2005. This petition requested the abandonment of a certain Jefferson County street in an unincorporated town or townsite within Jefferson County, Montana, and being a portion of a street within the original townsite of Clancy, Jefferson County, Montana. The description of the subject County street is set forth as follows:

An alley located in Block 16 Haynes addition in Clancy, Montana. Said alley is located between lots 1, 2 3, and 6 running north and south. Said alley is landlocked by David Leitheiser and Marks Ranch. Upon abandonment, that portion of the alley lying south of lot line 2 & 3 would go to Leitheiser; the portions that lie north of lot line 2 & 3 would go to Marks Ranch.

An alley that lies in Block 8 of Haynes addition in Clancy, MT runs east and west splitting Block 8 in half. Said abandoned alley lies between property owned by Ben & Sharon Grace, Marks Ranch and The Clancy United Methodist Church. Upon abandonment, said alley would be divided evenly to adjoining property owners that are common with the ally.

A portion of Cherry Street that lies on the north side of lots 26 & 25, Block 8 of Haynes addition. Said portion to be closed is fifteen feet (15') wide and runs the entirety of lots 26 & 25. Said abandoned property to be deeded to Ben & Sharon Grace.

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition. The Board found that the petition was submitted by all of the landowners affected by street petitioned to be closed within Jefferson County and found that said petition described the particular street or portions thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the

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necessity for and advantage of the petitioned action.

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. In this regard, the Board appointed Commissioner Notbohm and Ben Sautter, Road Supervisor, to conduct the investigation. On June 1, 2005, Commissioner Notbohm and Ben Sautter reported that they investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of Commissioner Notbohm's and Ben Sautter's investigation. Commissioner Lythgoe moved to approve the closure of said alleys and street; hereinafter described:

An alley located in Block 16 Haynes addition in Clancy, Montana. Said alley is located between lots 1, 2 3, and 6 running north and south.

An alley that lies in Block 8 of Haynes addition in Clancy, MT runs east and west splitting Block 8 in half.

A portion of Cherry Street that lies on the north side of lots 26 & 25, Block 8 of Haynes addition. Said portion to be closed is fifteen feet (15') wide and runs the entirety of lots 26 & 25.

The Board found that the granting of the relief sought in the Petition was in the best interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore, **IT IS HEREBY ORDERED** as follows:

1. That the Petition of Steve Marks, Laura Marks, Roberts Marks, Darrell Miller, Larry Bloxsom, Ben Grace, David Leitheiser, Brent Farrell and Sharon Grace is hereby granted subject to the following conditions:

a) that the Petitioners recognize that no owner shall ever claim or attempt to claim that any portion of said street constitutes a "lot" or "parcel", distinct from the owners adjoining lot or property, upon which the separate residence or structure requiring water and sewer facilities can be constructed, and;

b) that any utility easements now existing on the right-of-way will be continued



unaltered and that access by utility company employees for the maintenance of the equipment shall be allowed, and;

c) that Jefferson County shall retain full utility rights, if any.

2. That the portion of the said Jefferson County street which is abandoned by this Order is more particularly described as:

An alley located in Block 16 Haynes addition in Clancy, Montana. Said alley is located between lots 1, 2 3, and 6 running north and south.

An alley that lies in Block 8 of Haynes addition in Clancy, MT runs east and west splitting Block 8 in half.

A portion of Cherry Street that lies on the north side of lots 26 & 25, Block 8 of Haynes addition. Said portion to be closed is fifteen feet (15') wide and runs the entirety of lots 26 & 25.

**DATED** this 26<sup>th</sup> day of July, 2005.

**ATTEST:**

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**BONNIE RAMEY**  
**CLERK AND RECORDER**

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**TOMAS E. LYTHGOE, CHAIR**

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**CHUCK NOTBOHM, COMMISSIONER**

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**KEN WEBER, COMMISSIONER**

Commissioner Weber moved to adopt the resolution. Commissioner Notbohm seconded. The motion carried.

**REVISIT SOUTH HILLS DRIVE RMD PROPOSAL**

Commissioner Lythgoe stated that Bonnie had certified the petition for the RID, but had not seen the RMD petition. Because of this, the action the Commission took two weeks ago is null and void. Bonnie has since seen the RMD petition and certified the signatures.

**RESOLUTION 11-2005 AMENDED - RESOLUTION OF INTENT TO CREATE A RURAL MAINTENANCE DISTRICT FOR SOUTH HILLS DRIVE**

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Commissioner Lythgoe read the resolution as follows:

**RESOLUTION 11-2005 \*AMENDED\***

**RESOLUTION OF INTENT TO CREATE A RURAL MAINTENANCE DISTRICT FOR  
SOUTH HILLS DRIVE, JEFFERSON AND LEWIS AND CLARK COUNTIES,  
MONTANA**

**WHEREAS**, Jefferson County has created procedures to implement Rural Maintenance Districts within the county for the purpose of maintaining roads per MCA § 7-12-2102; and

**WHEREAS**, Jefferson County has a means of collecting landowner fees through placing this fee on tax assessments; and

**WHEREAS**, fifteen of twenty-one landowners within the boundaries of the proposed district located primarily in Jefferson County, Montana have petitioned Jefferson County to create a Rural Maintenance District (RMD) for the purpose to provide a safer road through removal of rocks, grading, providing road mix, sanding and plowing upon South Hills Drive and five are in Lewis and Clark County and Lewis and Clark County shall be notified; and

**WHEREAS**, the Jefferson County Clerk and Recorder has certified that those individuals living in Jefferson County whose names appear on the petition own real property that is served by South Hills Drive, and Lewis and Clark County will be notified so that the Lewis and Clark County Clerk and Recorder might certify that those individuals living in Lewis and Clark County whose names appear on the petition own real property that is served by South Hills Drive; and

**WHEREAS**, South Hills Drive landowners and homeowners have established a fee for individual RMD landowners of \$250.00 per year for maintenance of South Hills Drive including removing of rocks, grade, signs, and plowing and sanding. The South Hills Drive Association, Inc. shall levy the set maintenance fee and amount owed by each landowner per By-Laws of the South Hills Drive Road Association; and

**WHEREAS**, the attached petition and bylaws (Exhibit A) establishes voting rights of members of the RMD and establishes landowners of the RMD; and

**WHEREAS**, a map is attached (Exhibit B) and the boundaries of the RMD are defined by the outer-boundary of the lands owned by the eighteen landowners per the petition for RMD (Exhibit A).

**WHEREAS**, the Jefferson County Treasurer and Lewis and Clark County Treasurer will

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collect the RMD fees and upon presentation of the proper documentation of maintenance costs issue a warrant for those costs from the fees which have been collected. The Treasurer is authorized to charge a 10% administration fee from these fees; and

**WHEREAS**, the petition (Exhibit A) is submitted as part of this Resolution of Intent to clarify how the Rural Maintenance District shall function;

**NOW THEREFORE, BE IT RESOLVED**, that pursuant to § 7-12-2103, MCA, the Jefferson County Commission hereby created this Resolution of Intent to create a Rural Maintenance District number 1002, for South Hills Drive in Jefferson County, Montana and thereby shall publish notice of the passage of the Resolution of Intent as provided in §7-1-2121, MCA, and provide a copy of notice to be mailed by certified mail, as provided in §7-1-2122, to each person, firm or corporation or the agent of the person, firm or corporation owning real property within the proposed district. Lewis and Clark County was contacted and have consented to the Jefferson County Commission proceeding with the Resolution of Intent, and shall participate in the final hearing.

**DATED** this 26<sup>th</sup> day of July, 2005.

**ATTEST:**

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**BONNIE RAMEY**  
**CLERK AND RECORDER**

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**TOMAS E. LYTHGOE, CHAIR**

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**CHUCK NOTBOHM, COMMISSIONER**

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**KEN WEBER, COMMISSIONER**

Commissioner Lythgoe move to adopt the resolution as amended. Commissioner Weber seconded. The motion carried.

#### **ELECTED OFFICIAL/DEPARTMENT HEAD CONCERNS**

Commissioner Weber stated that Matt brought up the idea of doing a resolution of intent to form a library district, rather than having a library system. He would like to agendize this for two July 26, 2005 minutes.wpd

weeks out. Matt stated that he can draw up a proposal.

**MEETING ADJOURNED**

**ATTEST:**

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**BONNIE RAMEY  
CLERK AND RECORDER**

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**TOMAS E. LYTHGOE, CHAIR**

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**CHUCK NOTBOHM, COMMISSIONER**

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**KEN WEBER, COMMISSIONER**